

**TITLE 2 – PUBLIC MORALS, SAFETY AND WELFARE**  
**DIVISION 3 – FIRE PROTECTION AND EXPLOSIVES AND HAZARDOUS MATERIALS**  
**Chapter 5 - PUBLIC NUISANCE ABATEMENT FOR HAZARDOUS MATERIALS.**

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**23.0501 Authority.**

Pursuant to the authority cited in Chapter 4 of Division 3 of Title 2 of the San Bernardino County Code, other relevant state law, and Section 25845 of the Government Code, the Board of Supervisors for San Bernardino County hereby authorizes the Department, the Chief and Investigative Officers of the Hazardous Materials Division of the County Fire Department to enforce the provisions of this Public Nuisance Abatement Chapter within this jurisdiction. Such authority includes the right to enter land, with consent or a warrant if required, for investigation, posting or serving notice or to cause abatement as herein provided.

Ordinance 3846 (2002);

**23.0502 Definitions.**

Definitions stated in other Chapters of this Code shall supplement the following:

“Public Nuisances” include:

(a) Accumulations of junk, trash, and related materials as set forth more specifically at Chapter 8 of Division 3 of Title 3 of the San Bernardino County Code (Waste Management) herein and including but not limited to: scrap metals; scrap plastic or polymer materials; scrap pipe or plumbing fixtures; machinery; rags; bedding; waste oil; batteries; oily wastes and similar accumulations under conditions not in compliance with approved land uses or locations as set forth more specifically in Title 8 of the San Bernardino County Code (Development), or otherwise in any manner detrimental to public health and safety or the environment.

(b) Hazardous waste or hazardous materials as defined in this Code that are present under circumstances that could endanger public health and safety, or the environment.

(c) Incompatible materials unsuitable for commingling where circumstances suggest a likelihood of explosion, spontaneous combustion,

chemical reaction, fire, extreme heat, toxic substance formation or other dangerous reaction so as to endanger public health and safety or the environment.

(d) Biological and medical related wastes and odors from hospitals and medical facilities, sewers, cesspools, septic tanks, leach lines and fields (whether of individual or multiple ownership), toilets, holding tanks, seepage pits, butcher offal, animal droppings, excrement, urine, greywater, manure accumulations, dead animals, putrid matter and similar materials under circumstances endangering the public health and safety or the environment.

(e) The installation, operation, repair or modification of any underground tank system contrary to the provisions of this Code or the spill, overfill or release of a hazardous material or hazardous waste from an underground storage tank system.

(f) Any situation or activity that exists or is conducted, maintained, or permitted, known at common-law, in equity jurisprudence, specified at Section 3479 et seq. of the California Civil Code, Section 370 of the Penal Code, or elsewhere defined in state law or by the laws of the County as a public nuisance and within the authority of the Division to abate.

(g) Any violation of the provisions of Chapters 4, 5, 6, or 7 of Division 3 of Title 2 of this Code.

Ordinance 3846 (2002);

#### **23.0503 Resolution.**

(a) Whenever a public nuisance exists anywhere within this jurisdiction, the Chief or Investigating Officer may declare such to be a public nuisance.

(b) Such declaration may refer to the public nuisance location by the name under which it is commonly known, by street number and name, in reference to adjacent or nearby roads, streets, or highways, by the County Assessor's Parcel Number(s) (APN), or by an abbreviated legal description.

Ordinance 3846 (2002);

#### **23.0504 Duty to Abate.**

No person or entity shall cause, permit, maintain, conduct, or otherwise allow a public nuisance to exist within the County. It shall be the responsibility of every owner, occupant, and person in control of any land or interest therein, located within the County to remove, abate, and prevent the recurrence of a public nuisance upon such land or interest therein. Any recurrence of a condition may be deemed to be a continuation of the original condition.

Ordinance 3846 (2002);

#### **23.0505 Criminal and Civil Penalties Applicable.**

Violations of this Chapter are also subject to all enforcement, criminal and civil penalty provisions of Chapter 4 and Chapter 6 of Division 3 of Title 2 of the

San Bernardino County Code and all other remedies and penalties provided by law which are not limited or superseded by this Chapter.

Ordinance 3846 (2002);

**23.0506 Emergency Abatement.**

When a public nuisance constitutes an immediate hazard or real threat of harm under circumstances immediately dangerous to public health and safety or the environment, and the situation calls for abatement sooner than the abatement procedures herein otherwise allow, the Chief or Investigative Officers of the Division may take or cause emergency abatement of such nuisance with such notice to parties concerned, or without notice, as the particular circumstances reasonably allow.

Ordinance 3846 (2002);

**23.0507 Notice to Abate.**

(a) After the Chief or Investigating Officer declares the existence of a public nuisance, the Chief or Investigating Officer shall issue a "Notice to Abate" by either of the following methods:

(1) Mailing a copy by first class or certified mail addressed to the owner, person, or entity with a mailing address as shown on available tax or assessment rolls of the County of San Bernardino and posting a copy at the concerned property.

(2) Personal service upon the owner or occupant of the concerned property.

(b) The form "Notice to Abate" shall be substantially in the form following. In the absence of exigent circumstances, the notice may not require abatement in less than fifteen (15) days.

*NOTICE TO ABATE*

Issued this: \_\_\_\_\_

\_\_\_\_\_ *Month* \_\_\_\_\_ *Day* \_\_\_\_\_ *Year*

By authority of San Bernardino County Code Section 23.0501 et seq.,  
YOU ARE HEREBY NOTIFIED TO ABATE from your property described as

\_\_\_\_\_  
*Assessor's Parcel Number/APN* \_\_\_\_\_ *Establishment Number*

\_\_\_\_\_  
*Street Address* \_\_\_\_\_ *Post Office*  
from the County of San Bernardino Assessor's Tax Records that list the owner as:

\_\_\_\_\_ of \_\_\_\_\_  
*Name*

\_\_\_\_\_

\_\_\_\_\_ *Address* *Post Office* *State* *Zip*  
the following public nuisances:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If said nuisances are not abated within \_\_\_\_\_ calendar days of the above date, the Chief or Investigating Officer may order said conditions abated by public employees, private contractor, or other person, and the cost of said abatement and all directly related investigative and administrative costs shall be billed directly to the property owner or levied and assessed against the property as a special assessment lien.

Any appeal from this order must be in writing and filed within fifteen (15) calendar days with the Chief of the Hazardous Materials Division, who will set the same for hearing before a Board of Appeals and notify you of the date of such hearing.

Failure to abate or to appeal within the times allowed may also make you subject to criminal and civil remedies. Your cooperation is anticipated.

\_\_\_\_\_  
\_\_\_\_\_ *Name and Title of Issuing Officer*

San Bernardino County Fire Department  
385 North Arrowhead Avenue, 2<sup>nd</sup> Floor  
San Bernardino, CA 92415-0153

Ordinance 3846 (2002);

### **23.0508 Appeal Procedure.**

Any person or entity served, constructively or personally, with the Notice to Abate set forth in Section 23.0507 may appeal in writing to the Chief, by mail or by personal delivery, within fifteen (15) calendar days of said service. The appeal shall contain the address to which the Notice of hearing shall be sent in order for the appeal to be valid. The Division shall cause the matter to be set for hearing

before a Board of Appeals and notify the appellant of the date set for such hearing at least fifteen (15) calendar days prior to such date. The Board of Appeals shall act on the appeal and its determination shall be final. The Board of Appeals shall be appointed by the Chief and consist of three (3) persons as follows: two (2) Fire Department officers, but not the notice-issuing officer nor anyone having knowledge of the particular case, and a public member. Except as provided herein, the provisions of Section 23.0610 of this Code apply.

Ordinance 3846 (2002);

**23.0509 Abatement.**

If at the end of the time allowed for compliance in the Notice to Abate, or as extended in cases of appeal, compliance has not been accomplished, the Division may cause the abatement by public employees or by private contractor selected and approved by the Board of Supervisors in the manner and under the terms provided by this Chapter. If such abatement is so carried out, such property shall be subject to a special assessment lien for the costs of the abatement.

Ordinance 3846 (2002);

**23.0510 Payment for Abatement.**

(a) Procedure for Payment. When said abatement has been completed, the Division shall render to the San Bernardino County Auditor-Controller an itemized statement covering work necessary for the abatement. The Auditor-Controller shall pay the same from the funds of the agency or department causing said work to be done, and the Division shall present to the owner a demand for payment by mail. If payment is not made on behalf of the owner within sixty (60) calendar days after mailing such bill, the Chief shall certify to the Auditor-Controller the remaining unpaid cost, together with the information required by law in such cases. The Auditor-Controller shall cause the amount of the same to be entered upon the property from which abatement was accomplished, and the said special assessment and tax shall be included upon the next succeeding tax statement. Thereafter, the amounts of the assessment shall be collected at the same time and in the same manner as County taxes are collected, and are subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary County taxes, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this Section shall not attach to such real property and the costs of abatement, as confirmed, relating to such property shall be transferred to the unsecured roll for collection.

(b) Appeals. Any appeal from these charges must be filed within sixty (60) calendar days from the date of billing or receipt of a tax bill that shows abatement charges. The appeal procedure shall be the same as specified in Section 23.0508 of this Chapter, and the Appeal Board's decision shall be

conclusive.

(c) Cancellation of Claim. All or any portion of any such special assessment, penalty or costs heretofore entered shall on order of the Board of Appeals be canceled by the Auditor-Controller if uncollected or, except in the case provided for in subsection (c)(5) hereof, refunded by the County Treasurer if collected, if it or they were entered, charged, or paid:

- (1) more than once;
- (2) through clerical error;
- (3) through the error or mistake (regarding any material fact relevant to the determination of a claim) by the Board of Appeals, the Division or the person designated by them to give notice to abate;
- (4) illegally; or
- (5) on property acquired after the lien date by the state or by any county, city, school district, or other political subdivision and because of this public ownership is not subject to sale for delinquent taxes.

(d) Procedure for Refund of Payment. No order for a refund under the foregoing Section shall be made except on a claim:

- (1) verified by the person who paid the special assessment, their guardian, executor, or administrator;
- (2) filed within three (3) years after making the payment sought to be refunded.

Ordinance 3835 (2002);